

REMARKS

The above amendments to the above-captioned application along with the following remarks are being submitted as a full and complete response to the Official Action dated January 21, 2004. In view of the above amendments and the following remarks, the Examiner is respectfully requested to give due reconsideration to this application, in connection with the Request for Continued Examination filed herewith, to indicate the allowability of the claims, and to pass this case to issue.

Status of the Claims

Claims 1-6 and 25-32 are under consideration in this application. Claims 1 and 28 are being amended, as set forth in the above marked-up presentation of the claim amendments, in order to more particularly define and distinctly claim applicants' invention.

Additional Amendments

The claims are being amended to correct formal errors and/or to better recite or describe the features of the present invention as claimed. All the amendments to the claims are supported by the specification. Applicants hereby submit that no new matter is being introduced into the application through the submission of this response.

Formality Rejections

Claims 1-6 and 25-32 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. As indicated, the claims have been amended as required by the Examiner. Accordingly, the withdrawal of the outstanding informality rejection is in order, and is therefore respectfully solicited.

Prior Art Rejection

Claims 1-6 and 25-32 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,142,876 to Cumbers (hereinafter "Cumbers") in view of the Examiner's Official Notice. This rejection has been carefully considered, but is most respectfully traversed, as more fully discussed below.

The customer information control system of the invention, as now recited in claim 1,

comprises: one or a plurality of image pick-up elements installed in a store or a **facility of hospitality industries** (p. 1, 2nd paragraph) for unnoticeably (p. 4, last line; Fig. 3) taking at least one of facial, partial body and whole body images of customers every time the customers come to the store or the facility (p. 5, 2nd paragraph), and a subsystem for encoding said image and transmitting the encoded image to a server via a wired and/or wireless network line 11; at least one input terminal 14 or 15 for inputting *customer personal information of the customers* (any information that can specify the customer in comparison with other customers, such as favorite foods, hobbies and special skills, in addition to personal information (ID) such as name, address, telephone number, domain, age, sex and family make-up; p. 4, 5th paragraph), said customer personal information including customer preference information regarding orders (p. 2, line 11) or customer service used (p. 2, line 18; p. 7, line 18) by the customers in the store or the facility (e.g., “*the preference of the customer for meat dish is sirloin*”, “*the preference of the customer for the cooked state of beef is medium*”, “*the customer orders coffee after the meal*”, or “*the customer likes a seat by the window*” p. 7, lines 1-4); and a subsystem for encoding the input customer personal information and transmitting the encoded information to the server via a wired and/or wireless network line 11. The image is compared against existing images by the server (1) to identify whether the customers visited the store or the facility before (p. 6, 4th-5th paragraphs) or (2) to verify identities of the customers (p. 7, 2nd paragraph) so as to input or retrieve customer personal information of the customers (p. 7, 3rd paragraph). If the server determines that the customers visited the store or the facility before, the server transmits via the wired and/or wireless network line 11 (Fig. 2) to said input terminal said customer preference information to display thereon (e.g., “Steak set (coffee/rice)”, “Smoking seat, A5 table was used” in Fig. 4) thereby allowing discussion on preferences of the customers in person during reception or visit (“*the waiter can discuss or talk about the preference of the customer, after having got the information such as orders that the customer made before*” p. 2, second paragraph).

The invention unnoticeably takes images with a hidden camera 4 at an entrance D (Fig. 3), or a camera 4 embedded in a signing board 9 or a register 7 (Fig. 3) for collection clients' images without their notice. The invention collects customer personal information and retrieves the customer personal information each time the customers visit the store of the facility so as to display on input terminal the customer preference information thereby allowing discussion of the preferences of the customers during reception or visit.

Applicant respectfully submits that Cumbers fails to teach or suggest “image pick-up elements installed in a store or a facility of the hospitality industries for unnoticeably taking at least one of facial, partial body or whole body images of customers every time the customers come to the store or the facility” and “at least one input terminal 14 or 15 for inputting customer personal information of the customers including customer preference information regarding orders and customer service used by the customers in the store or the facility” so as to determine that the customers visited the store or the facility before then transmit via a wired and/or wireless network line to said input terminal said customer preference information to display thereon thereby allowing discussion on preferences of the customers in person during reception or visit according to the invention.

In contrast, Cumbers only teaches a slot machine with the capability of identifying the player (Abstract; Fig. 1). The slot machine with a camera can be installed in a store or a facility of the hospitality industry for unnoticeably taking images of faces or bodies of only the users of the slot machine (but not all customers visiting the casino or the store).

Cumbers compares the image against existing images to identify player's account file and “*data representing parameters of play*”, e.g. amounts wagered allocated to the identified player's account file. for the purpose of providing comps and other benefits to the player (Abstract). The “*data representing parameters of play*” correspond to the player's accrued points can be assigned to the identified players account file 30a (col. 5, lines 40-42) thereby “*providing comps and other benefits to the player.*”

First of all, Cumbers only displays on the display monitor 16 an “acquired player image” (but not “the wagered amounts” or any “*customer preference information*” of the invention) for the attendant to assure that a clear and correct image is obtained (col. 4, lines 38-40).

Secondly, the waged amounts are only **consumed money values** against the identified player's account balance, which may be used to analyze the player's playing habits so as to *derive* any *customer preference information regarding betting by the customers in the store or the casino*. However, Cumbers fails to teach or suggest any such playing habit analysis or derivation of any customer preference information regarding betting in the store or the casino. Moreover, the customer preference information regarding betting concerns, at most, customer preference information regarding orders (sale of target goods or services, e.g., betting), but not customer service (e.g., seating) used by the customers in the store or the casino “in support of its sales

effort ¹”.

Thirdly, Cumbers only automatically determines “*awards, promotions or comps* (col. 4, lines 13-14)” to the identified player based upon the wagered amounts such that it does not conduct any in person reception or discussion with the users about their preferences during reception or visit according to the invention.

Fourthly, Maeno’s camera of a crime prevention system installed in a “*secure area*” or a “*particular area*” (col. 2, lines 24-29 in Cumbers) of “*an office, a shop, a school, a bank or a factory*” (col. 1, line 11 in Maeno) was relied upon by the Examiner to teach “image pick-up elements installed in a store or a facility of hospitality industries for unnoticeably taking at least one of facial, partial body and whole body images of customers every time the customers come to the store or the facility” of the invention. However, Maeno’s security camera targets persons entering a “*secure area*” or a “*particular area*” (rather than customers entering “*anywhere*” in a store or a facility of hospitality industries as long as the camera is unnoticeable). Moreover, Maeno identifies any intruder entering into the “*secure area*” or the “*particular area*” by comparing a captured image with the images of authorized persons for the “*secure area*” or the “*particular area*” such that Maeno misses customers do not enter the “*secure area*” or the “*particular area*”. On the other hand, the invention compares a captured image with the images of customers of the store or the facility of hospitality industries, rather than just those entering into the “*secure area*” or the “*particular area*.” As such, Maeno fails to compensate for Cumbers’ deficiencies in monitoring only at each slot machine, which misses customers do not play the slot machines.

Lastly, neither Cumbers nor Maeno applies wireless communication between a server and an input terminal.

Applicants hereby challenge the Examiner's official notice regarding “*wireless communication*” etc. were not being properly officially noticed, by specifically pointing out the supposed errors in the examiner's action. MPEP 2144.03 C. The official noticed fact shall be considered as common knowledge or well-known in the art only based upon concrete evidence in the record in support applying wireless network link between the server and the input terminal as the filing date of the application January 26, 2001. Wireless communication links were well-known before January 26, 2001, but it is unique to use the link to transmit “customer preference information regarding orders and customer service used by the customers in the store or the

¹ MoneyGlossary.com. <http://www.moneyglossary.com/?w=Customer+Service>

facility” between the server and the input terminal of the invention.

"It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. Zurko, 258 F.3d at 1385, 59 USPQ2d at 1697 ("[T]he Board cannot simply reach conclusions based on its own understanding or experience-or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings."). While the court explained that, "as an administrative tribunal the Board clearly has expertise in the subject matter over which it exercises jurisdiction," it made clear that such "expertise may provide sufficient support for conclusions [only] as to peripheral issues." Id. at 1385-86, 59 USPQ2d at 1697. As the court held in Zurko, an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support. Id. at 1385, 59 USPQ2d at 1697. See also In re Lee, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002) (In reversing the Board's decision, the court stated " 'common knowledge and common sense' on which the Board relied in rejecting Lee's application are not the specialized knowledge and expertise contemplated by the Administrative Procedure Act. Conclusory statements such as those here provided do not fulfill the agency's obligation.. The board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies."). " As such the Examiner shall provide "some concrete evidence in the record in support of" factual assertion to rely solely on "common knowledge" in the art as the principal evidence.

Even if, arguendo, a person of ordinary skill were motivated to combine Cumbers and Maeno as suggested by the Examiner, such combined teachings would still fall short in fully meeting the Applicants' claimed invention as set forth in claim 1 since, as discussed, there is no teaching of “image pick-up elements installed in a store or a facility of the hospitality industries for unnoticeably taking at least one of facial, partial body or whole body images of customers every time the customers come to the store or the facility” and “at least one input terminal 14 or 15 for inputting customer personal information of the customers including customer preference information regarding orders and customer service used by the customers in the store or the facility” so as to determine that the customers visited the store or the facility before then transmit via a wired and/or wireless network line to said input terminal said customer preference information to display thereon thereby allowing discussion on preferences of the customers in person during reception or visit according to the invention.

Applicants contend that Cumbers and its combination with prior art fail to teach or disclose each and every feature of the present invention as disclosed in independent claim 1. As such, the present invention as now claimed is distinguishable and thereby allowable over the rejections raised in the Office Action. The withdrawal of the outstanding prior art rejections is in order, and is respectfully solicited.

In view of all the above, clear and distinct differences as discussed exist between the present invention as now claimed and the prior art reference upon which the rejections in the Office Action rely, Applicant respectfully contends that the prior art references cannot anticipate the present invention or render the present invention obvious. Rather, the present invention as a whole is distinguishable, and thereby allowable over the prior art.

Favorable reconsideration of this application is respectfully solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the above-captioned application, the Examiner is invited to contact the Applicant's undersigned representative at the address and phone number indicated below.

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April 21, 2004

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